



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

July 9, 2018

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Jason Treglia**  
Tax Registry No. 926222  
48 Precinct  
Disciplinary Case No. 2016-15945

The above named member of the service appeared before Assistant Deputy Commissioner Nancy R. Ryan on April 27, 2018, charged with the following:

**DISCIPLINARY CASE NO. 2016-15945**

1. Said Police Officer Jason Treglia, while on duty and assigned to the 48<sup>th</sup> Precinct, on or about February 8, 2016, at approximately 1837 hours, in the vicinity of [REDACTED], Bronx County, did abuse his authority in that he stopped Minor A without sufficient legal authority.

P.G. 212-11

**INVESTIGATIVE  
ENCOUNTERS: REQUESTS  
FOR INFORMATION,  
COMMON LAW RIGHT OF  
INQUIRY AND LEVEL 3 STOPS**

2. Said Police Officer Jason Treglia, while on duty and assigned to the 48<sup>th</sup> Precinct, on or about February 8, 2016, at approximately 1837 hours, in the vicinity of [REDACTED], Bronx County, did abuse his authority in that he arrested Minor A without sufficient legal authority.

P.G. 208-01

**LAW OF ARRESTS**

In a Memorandum dated May 31, 2018, Assistant Deputy Commissioner Nancy R. Ryan found Police Officer Jason Treglia Guilty of all Specifications in Disciplinary Case No. 2016-15945. Having read the Memorandum and analyzed the facts of this matter, I approve the findings but disapprove the penalty for Police Officer Treglia.

I have considered the totality of the issues and circumstances in this matter, and deem that a greater penalty is warranted. Therefore, Police Officer Treglia shall forfeit ten (10) vacation days, as a disciplinary penalty.



James P. O'Neill  
Police Commissioner



POLICE DEPARTMENT

May 31, 2018

In the Matter of the Charges and Specifications :

Case No.

- against -

2016-15945

Police Officer Jason Treglia :

Tax Registry No. 926222 :

48<sup>th</sup> Precinct :

At:                   Police Headquarters  
                        One Police Plaza  
                        New York, New York 10038

Before:              Honorable Nancy R. Ryan  
                        Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:     Ji Jahng & Steven Guerrero, Esqs.  
                                  Department Advocate's Office  
                                 One Police Plaza  
                                 New York, NY 10038

For the Respondent:     John Tynan, Esq.  
                                 Worth, Longworth & London, LLP  
                                 111 John Street, Suite 640  
                                 New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

## CHARGES AND SPECIFICATIONS

1. Said Police Officer Jason Treglia, while on duty and assigned to the 48<sup>th</sup> Precinct, on or about February 8, 2016, at approximately 1837 hours, in the vicinity of [REDACTED], Bronx County, did abuse his authority in that he stopped Minor A without sufficient legal authority.

P.G. 212-11

### INVESTIGATIVE ENCOUNTERS: REQUESTS FOR INFORMATION, COMMON LAW RIGHT OF INQUIRY AND LEVEL 3 STOPS

2. Said Police Officer Jason Treglia, while on duty and assigned to the 48<sup>th</sup> Precinct, on or about February 8, 2016, at approximately 1837 hours, in the vicinity of [REDACTED], Bronx County, did abuse his authority in that he arrested Minor A without sufficient legal authority.

P.G. 208-01

### LAW OF ARRESTS

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on April 27, 2018.

Respondent, through his counsel, entered pleas of Not Guilty to the subject charges. The Department called [REDACTED] Minor A and Minor B as witnesses

Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of both Specifications.

## ANALYSIS

In this case, it is undisputed that on or about February 8, 2016, at approximately 1837 hours, Respondent and his partner were patrolling, in uniform, in a marked police car, in the vicinity of E. 179<sup>th</sup> Street and Belmont Avenue in the Bronx. Minor A, who was 14 at the time, was walking on Belmont Avenue towards his home. He was with his sister Minor C who was 12 at the time, and his aunt Minor B, who was 16. Minor A was making noises while he walked. Respondent has described the noises as simulated gunshot sounds. Minor A has described the noises as his singing rap music lyrics with the words,

"Boom, Boom, Boom", while he had his headphones on. Respondent, upon hearing the noises, backed his car up to where Minor A was standing. Respondent questioned Minor A and ultimately placed him in handcuffs and put him in the police car. Minor A's mother, Tashila Rivera, arrived on the scene. Minor A was arrested for disorderly conduct, 240.20 (1) for what Respondent described as violent tumultuous behavior of simulating gunshots verbally towards himself and his partner, which was threatening their safety.

Minor A, his mother and Minor B elaborated on details of their encounter with Respondent in their trial testimony. Minor A testified that on the evening in question he had just purchased food from a Little Caesars near his apartment and was bringing it back home with his sister and aunt. (Tr. 57-58) He was not carrying anything except food and he had nothing in his pockets except his iPhone. (Tr. 59-60) He was wearing headphones and was listening to rap music at full volume. He could not hear anything except the music, which he was singing along to. (Tr. 60-61) He did not think he was singing that loudly, but his sister and his aunt were looking at him like he was crazy. (Tr. 61-62) As he was walking about a block away from his apartment, he saw a police car drive on 179<sup>th</sup> Street and then reverse to pull up in front of him as he was about to cross the street. At that time he saw no one else in the area except his two companions. Minor A testified that the officer sitting in the driver's seat, whom he identified in court as the Respondent, asked him if he was threatening him and after he replied that he wasn't, Respondent asked him for identification. Minor A told Respondent he was only a minor and started to walk away. Minor A testified that, at that point, Respondent got out of the car and grabbed him and slammed his head on the car. He was placed in handcuffs and was searched. (Tr. 62-66, 71, 74-76) Minor A further testified that he asked his aunt to grab his cell phone and when she went to do so, Respondent pushed her, causing her to stumble. (Tr. 72) When Minor A's mother arrived on the scene, which he stated happened after he was placed in

the police car, Respondent told his mother to meet them at the 48<sup>th</sup> precinct and Respondent then drove Minor Δ to the precinct. (Tr. 76-77, 84) He was released from the precinct about an hour later and was never given any summons. (Tr. 77)

On cross-examination, Minor Δ agreed that before he was stopped he was singing lyrics that went, "boom, boom, boom," (Tr. 80) He also acknowledged that while he was in the police car, he called the Respondent the N word. He said the officer asked if he would like to fight him. (Tr. 87-88)

After he was released from the precinct, Minor Δ went to the hospital the next day where pictures were taken of his bruises (none introduced onto evidence), but he was not admitted and not given any medication. (Tr. 90-92) Minor Δ also testified on cross examination that he was aware that a lawsuit arising out of this incident had been settled for approximately \$40,000-\$50,000, which he believed was to be used for his college money. (Tr. 93-94)

On his redirect examination, Minor Δ explained that he had been in the Explorer program at the 48 precinct at the time of this incident, but that he stopped going to the program after his arrest. (Tr. 97-98)

Minor Δ's aunt, Minor B, testified similarly to Minor Δ that they had been walking home from getting food and that Minor Δ was singing while he had his headphones on. (Tr. 107-108) She also saw no other people on the street at the time. She testified that a police car passed them and then reversed to stop in front of and about two feet away from them. (Tr. 108-10) She remembers that the driver of the police car, who she identified as Respondent, asked Minor Δ how old he was and why was he singing that song. (Tr. 110-11) Minor Δ told the officer he was 14 and then he and Minors B and C started to walk away from the police. (Tr. 112) Minor B testified that Respondent then came up to Minor Δ and told

him he wasn't done talking to him. Minor A spoke to Respondent and was not using any profanity or raising his voice or making any hand gestures. (Tr. 114-15) When the three of them started to walk away again, Respondent grabbed Minor A and said he wasn't done. Minor A asked Minor B to take his phone from his pocket and when she went to do that, Respondent pushed her. (Tr. 115) Minor A was placed in handcuffs and placed in the back of the police car. (Tr. 116) She testified that Minor A's mother came to the scene while Minor A was getting into the police car. (Tr. 123)

On cross-examination, Minor B testified that she believed she received \$12,000 from the lawsuit arising out of this incident, but that she did not have the money yet. She also stated that because of the incident she makes every effort to avoid the police. (Tr. 118)

Minor A's mother, [REDACTED] testified that on the date in question, she received a phone call from her daughter, Minor C, who told her the police were questioning Minor A. Ms. [REDACTED] then ran out of her apartment to the scene which was about two buildings away from her home. (Tr. 18) She testified that she saw the officer shove her sister and also hit Minor A's head on the car. (Tr. 19) She saw Minor A moving his shoulders around as Respondent was trying to place him in the police car. (Tr. 37) While Ms. [REDACTED] was at the scene she saw only one other person, besides her relatives and the police, in the area. (Tr. 21) She saw that Minor A had been placed in the police car and she asked why he was being arrested. (Tr. 19) Respondent told her to go to the 48 precinct. At the precinct he told her that her son was arrested for making threatening sounds. (Tr. 24-25)

On cross-examination, Ms. [REDACTED] testified that she sued Respondent and the city over the incident and had obtained a settlement of close to \$42,000, but has not received the money yet. (Tr. 27-28) She also acknowledged that while she testified that Respondent had no badge on

at the scene, she did not tell that to the Civilian Complaint Review Board ("CCRB") when she first spoke to them by phone. (Tr. 42-43)

The Department also submitted a transcript of the interview of Minor C. by the CCRB. In her interview, Minor C relates essentially the same account of events as Minors A and B. She did not appear to testify at trial.

Respondent testified that while he was on patrol he observed Minor A, who was with two females at the time, "simulating gunshots verbally," at, "an extremely loud decibel level." (Tr. 133-35) Respondent described hearing a combination of, "bang, bang, bang, pop, pop, pop." He knew it was Minor A making the sounds because he saw his mouth, "simulating it." (Tr. 146-48, 150) Respondent described the area as dangerous with "lots of shootings" and he noted that two officers had been shot two weeks prior to this date. He testified that he and his partner at the time agreed that they had to get out of their vehicle to assess the situation since they felt threatened and thought the male could potentially be a violent person. Respondent got out of the police car and walked towards Minor A who was about eight to ten feet away. (Tr. 135, 137) Respondent did not see any gun or weapons in Minor A's hands and he does not recall if he saw any bulges on Minor A's clothing. (Tr. 152-53) Respondent did not have his gun drawn when he approached Minor A, nor did he call for any backup. (Tr. 151) Respondent does not remember exactly what he said to Minor A, but it might have been something to the effect of stating to Minor A that he was verbally making gunshots towards him. (Tr. 136) Respondent testified that Minor A was very belligerent and at one point, either before or after he was placed in custody, said, "fuck the police, that's why you all get shot." (Tr. 138) Respondent testified that he tried to talk to Minor A but Minor A was combative and was unwilling to "act rational" and explain what was going on, causing Respondent to feel less and less safe. Respondent further testified that Minor A did affirm his behavior of simulating gunshots. (Tr.

157) Respondent felt that Minor A had to be restrained, "not just for the crime he committed but because he was acting in a way that from my experience, in a way that was a safety issue." (Tr.

158) Respondent remembers frisking Minor A and putting his hand out to stop an approaching female from assaulting Respondent. (Tr. 139) Respondent arrested Minor A for committing disorderly conduct for threatening his safety with "violent, tumultuous behavior." The basis for this according to Respondent was that Minor A had simulated gunshots verbally towards Respondent and his partner. (Tr. 139-140) After he had Minor A in the police car, Respondent saw a large crowd running towards him so he left the area. (Tr. 142-43) Respondent testified that while they were in the police car, Minor A told him to take his badge and gun off so he could kick his "fucking ass," and also called him a "nigger" many times. (Tr. 143) At the precinct, after Respondent learned that Minor A was a juvenile, he filled out a juvenile report since Minor A could not be charged with the crime he was arrested for. (Tr. 160-61)

Respondent is charged in this case with both stopping and arresting Minor A without sufficient legal authority. It is clear that a stop did occur in this case. I credit the testimony of Minor A and Minor B that Minor A took steps to walk away from Respondent, but that Respondent did not allow him to leave the area. Respondent's testimony is not in conflict with this account of events. It is also clear that an arrest did occur, based on Respondent's testimony that he took Minor A into custody and was arresting him at the scene for disorderly conduct. The issue is whether Respondent had sufficient legal authority for the stop and or the arrest. I find that he did not.

Under Patrol Guide Section 212-11, an officer may only stop an individual if he or she reasonably suspects a person has committed, is committing or is about to commit a felony or a Penal Law misdemeanor. In this case, based on Respondent's testimony alone, he stopped Minor A and arrested him for disorderly conduct, which is a violation, because he was making the

sounds of bang and pop from his mouth. Respondent did not articulate anything that could be considered to have given him a reasonable suspicion prior to the stop that Minor A had committed, was committing, or was about to commit a felony or a Penal Law misdemeanor.

In addition, under the Penal Law Section Respondent placed Minor A under arrest for, Penal Law Section 240.20 (1), "a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior." Again, based on Respondent's testimony alone, the court does not find that Respondent had sufficient legal authority to place Minor A under arrest for a violation of Penal Law Section 240.20 (1). As is pointed out by the Court of Appeals of New York in People v. Baker, 20 N. Y. 3d 354 (2013), the conduct in question must have caused actual or threatened public harm and must have been done with the intent to cause to threaten public safety, peace or order. In Baker, a defendant was arrested for disorderly conduct when he had a verbal exchange with a police officer on a public street which included the defendant twice using profanity towards the officer and accusing the officer of harassing him. About ten people had gathered on the street but there was no indication the bystanders were becoming involved in the situation. The court found that there was no significant likelihood that the defendant's brief statements, despite being loud, would disrupt the peace and order in the vicinity. The court also wrote that, "The fact that defendant's abusive statements were directed exclusively at a police officer – a party trained to defuse situations involving angry or emotionally distraught persons – further undermines any inference that there was a threat of public harm, particularly since the police officer was in a position of safety and could have closed his windows and ignored defendant." Respondent was in a similar position to the officer in Baker, in that as he knew that the sounds he heard were sounds coming from a young man's mouth and since he saw no other indication of criminal activity, Respondent could

have continued to drive on his patrol. Respondent did not provide any testimony that indicated that the sounds Minor A was making were causing public harm and therefore Respondent had no basis to arrest Minor A for Disorderly Conduct under Penal Law Section 240.20 (1).

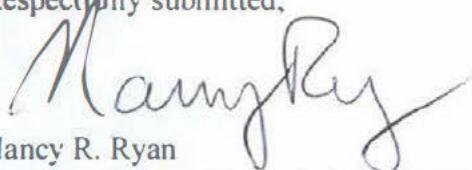
Respondent is Guilty of Specifications 1 and 2.

### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on March 1, 2000. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has requested a penalty of the forfeiture of five vacation days. I concur with the Department's recommendation. Five days falls within the range of penalties imposed in recent cases for unlawful stops and arrests. In *Disciplinary Case No. 2015-12955*, signed October 21, 2016 a three-year police officer forfeited eight (8) vacation days for (i) stopping an individual without sufficient legal authority; (ii) pushing said individual against a car without police necessity, and (iii) issuing said individual a disorderly conduct summons without sufficient legal authority. In *Disciplinary Case Nos. 2013-10710, 2013-10711 & 2014-12345*, signed September 1, 2015 a six-year police officer with no prior disciplinary record forfeited two vacation days for issuing a Disorderly Conduct summons to two individuals without sufficient legal authority. The reason Respondent gave for issuing the summonses was that the offenders were obstructing traffic.

Respectfully submitted,

  
Nancy R. Ryan  
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER JASON TREGLIA  
TAX REGISTRY NO. 926222  
DISCIPLINARY CASE NO. 2016-15945

Respondent was appointed to the Department on March 1, 2000.

On his last three annual performance evaluations, Respondent received an overall rating of 3.0 "Competent" in 2016 and two overall ratings of 3.5 "Highly Competent/Competent" in 2015 and 2014.

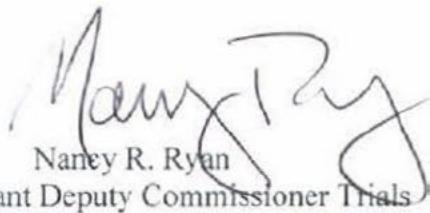
Respondent has been awarded 11 Department medals for Excellent Police Duty and four medals for Meritorious Police Duty.

[REDACTED]

From October 13, 2004 to February 28, 2006, Respondent was placed on Level 1 Force Monitoring as a result of receiving three or more CCRB complaints in one year. On September 15, 2017, he was placed on Level 1 Discipline Monitoring as a result of the instant case; this monitoring remains ongoing.

Respondent has no prior formal disciplinary history.

For your consideration.

  
Nancy R. Ryan  
Assistant Deputy Commissioner Trials